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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 DIGITECH IMAGE TECHNOLOGIES,
12 LLC,

13 Plaintiff,

14 v.

15 ELECTRONICS FOR IMAGING, INC. et
16 al.,

17 Defendants.
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Case No. 8:12-cv-1324-ODW(MRWx)

**STIPULATED ELECTRONICALLY
STORED INFORMATION ORDER**

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20 **LEAD CASE—APPLIES TO ALL
COORDINATED ACTIONS**
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The Court **ORDERS** as follows:

1. This Order supplements all other discovery rules and orders. It streamlines Electronically Stored Information (“ESI”) production to promote a “just, speedy, and inexpensive determination” of this action, as required by Federal Rule of Civil Procedure 1.

2. This Order may be modified for good cause. The parties shall jointly submit any proposed modifications within 30 days after the Federal Rule of Civil Procedure 16 conference. If the parties cannot resolve their disagreements regarding

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1 these modifications, the parties shall submit their competing proposals and a summary
2 of their dispute.

3 3. Costs will be shifted for disproportionate ESI production requests
4 pursuant to Federal Rule of Civil Procedure 26. Likewise, a party's nonresponsive or
5 dilatory discovery tactics will be cost-shifting considerations.

6 4. A party's meaningful compliance with this Order and efforts to promote
7 efficiency and reduce costs will be considered in cost-shifting determinations.

8 5. General ESI production requests under Federal Rules of Civil
9 Procedure 34 and 45 shall not include metadata absent a showing of good cause.
10 However, fields showing the date and time that the document was sent and received,
11 as well as the complete distribution list, shall generally be included in the production.

12 6. General ESI production requests under Federal Rules of Civil
13 Procedure 34 and 45 shall not include email or other forms of electronic
14 correspondence (collectively "email"). To obtain email parties must propound specific
15 email production requests.

16 7. Email production requests shall only be propounded for specific issues,
17 rather than general discovery of a product or business.

18 8. Email production requests shall be phased to occur after the parties have
19 exchanged initial disclosures and basic documentation about the patents, the prior art,
20 the accused instrumentalities, and the relevant finances. While this provision does not
21 require the production of such information, the Court encourages prompt and early
22 production of this information to promote efficient and economical streamlining of the
23 case.

24 9. Email production requests shall identify the custodian, search terms, and
25 time frame. The parties shall cooperate to identify the proper custodians, proper search
26 terms and proper timeframe.

27 10. Each requesting party shall limit its email production requests to a total
28 of five custodians per producing party for all such requests. The parties may jointly

1 agree to modify this limit without the Court's leave. The Court shall consider
2 contested requests for up to five additional custodians per producing party, upon
3 showing a distinct need based on the size, complexity, and issues of this specific case.
4 Should a party serve email production requests for additional custodians beyond the
5 limits agreed to by the parties or granted by the Court pursuant to this paragraph, the
6 requesting party shall bear all reasonable costs caused by such additional discovery.

7 11. Each requesting party shall limit its email production requests to a total
8 of five search terms per custodian per party. The parties may jointly agree to modify
9 this limit without the Court's leave. The Court shall consider contested requests for up
10 to five additional search terms per custodian, upon showing a distinct need based on
11 the size, complexity, and issues of this specific case. The search terms shall be
12 narrowly tailored to particular issues. Indiscriminate terms, such as the producing
13 company's name or its product name, are inappropriate unless combined with
14 narrowing search criteria that sufficiently reduce the risk of overproduction. A
15 conjunctive combination of multiple words or phrases (e.g., "computer" and
16 "system") narrows the search and shall count as a single search term. A disjunctive
17 combination of multiple words or phrases (e.g., "computer" or "system") broadens the
18 search, and thus each word or phrase shall count as a separate search term unless they
19 are variants of the same word. Use of narrowing search criteria (e.g., "and," "but not,"
20 "w/x") is encouraged to limit the production and shall be considered when
21 determining whether to shift costs for disproportionate discovery. Should a party serve
22 email production requests with search terms beyond the limits agreed to by the parties
23 or granted by the Court pursuant to this paragraph, the requesting party shall bear all
24 reasonable costs caused by such additional discovery.

25 12. The receiving party shall not use ESI that the producing party asserts is
26 attorney-client privileged or work product protected to challenge the privilege or
27 protection.

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1 13. Pursuant to Federal Rule of Evidence 502(d), the inadvertent production
2 of a privileged or work product protected ESI is not a waiver in the pending case or in
3 any other federal or state proceeding.

4 14. The mere production of ESI in a litigation as part of a mass production
5 shall not itself constitute a waiver for any purpose.

6 SO STIPULATED

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8
9 Dated: April 15, 2013 Collins Edmonds Pogorzelski Schlather &
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11 By: /s/ JOHN J. EDMONDS
12 JOHN J. EDMONDS

13 Attorneys for Plaintiff
14 Digitech Image Technologies, LLC

15 Dated: April 15, 2013 Jones Day

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17 By: /s/ FRANK P. COTE
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18 Attorneys for Defendant
19 Electronics for Imaging, Inc.

20 Dated: April 15, 2013 Orrick, Herrington & Sutcliffe LLP

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23 CHRISTOPHER P. BRODERICK

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25 Panasonic Corporation And Panasonic
26 Corporation of North America
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6 Dated: April 15, 2013 Kohan Law Firm
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11 Counter-claimant Sakar International, Inc.

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27 America, Inc.
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13 Dated: April 15, 2013 Knobbe, Martens, Olson & Bear, LLP

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17 General Imaging Company
18 Orrick, Herrington & Sutcliffe LLP

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26 CHRISTOPHER P. BRODERICK

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28 Nikon Corporation and Nikon, Inc.

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5 Pentax Ricoh Imaging Co., Ltd.; Pentax Ricoh
6 Imaging Americas Corporation; Ricoh
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7 Dated: April 15, 2013 Ballard Spahr LLP

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9 By: /s/ ROSINA M. HERNANDEZ
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10 Attorneys for Defendant
11 Xerox Corporation

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22 Victor Hasselblad AB and Hasselblad USA Inc.

1 Dated: April 15, 2013

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5 Casio America, Inc. and Casio Computer Co.,
6 Ltd.

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Turner Boyd LLP

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12 Dated: April 15, 2013

13 Bostwick & Jassy LLP
Kilpatrick Townsend & Stockton LLP

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17 Motorola Mobility LLC

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19 Dated: April 15, 2013

Crowell & Moring LLP

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DANIEL A. SASSE

21 Attorneys for Defendants
22 Leica Camera AG and Leica Camera Inc.

23
24 **SO ORDERED.**

25 DATED: May 22, 2013

26 
Hon. Otis D. Wright, II
27 UNITED STATES DISTRICT JUDGE
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List of Coordinated *Digitech* Cases

1. 8:12-cv-01324-ODW-MRW *Digitech v. Electronics for Imaging Inc.*
2. 8:12-cv-01667-ODW-MRW *Digitech v. Panasonic Corp. et al.*
3. 8:12-cv-01668-ODW-MRW *Digitech v. Buy.com*
4. 8:12-cv-01669-ODW-MRW *Digitech v. Best Buy Co.*
5. 8:12-cv-01670-ODW-MRW *Digitech v. Canon Inc. et al.*
6. 8:12-cv-01671-ODW-MRW *Digitech v. B & H Foto & Elec. Corp.*
7. 8:12-cv-01673-ODW-MRW *Digitech v. Sakar Int'l Inc.*
8. 8:12-cv-01675-ODW-MRW *Digitech v. Mamiya Digital Imaging Co. et al.*
9. 8:12-cv-01676-ODW-MRW *Digitech v. Olympus Corp. et al.*
10. 8:12-cv-01677-ODW-MRW *Digitech v. Leica Camera AG et al.*
11. 8:12-cv-01678-ODW-MRW *Digitech v. Sony Corp. et al.*
12. 8:12-cv-01679-ODW-MRW *Digitech v. Fujifilm Corp. et al.*
13. 8:12-cv-01680-ODW-MRW *Digitech v. General Imaging Co.*
14. 8:12-cv-01681-ODW-MRW *Digitech v. Sigma Corp. et al.*
15. 8:12-cv-01683-ODW-MRW *Digitech v. Target Corp.*
16. 8:12-cv-01685-ODW-MRW *Digitech v. Nikon Corp. et al.*
17. 8:12-cv-01686-ODW-MRW *Digitech v. Micro Elec. Inc.*
18. 8:12-cv-01687-ODW-MRW *Digitech v. Overstock.com*
19. 8:12-cv-01688-ODW-MRW *Digitech v. Newegg Inc.*
20. 8:12-cv-01689-ODW-MRW *Digitech v. Pentax Ricoh Imaging et al.*
21. 8:12-cv-01693-ODW-MRW *Digitech v. Xerox Co.*
22. 8:12-cv-01694-ODW-MRW *Digitech v. Konica Minolta Holdings Inc. et al.*
23. 8:12-cv-01695-ODW-MRW *Digitech v. CDW LLC*
24. 8:12-cv-01696-ODW-MRW *Digitech v. Victor Hasselblad AB et al.*
25. 8:12-cv-01697-ODW-MRW *Digitech v. Casio Computer Co. et al.*
26. 8:12-cv-02122-ODW-MRW *Digitech v. Asus Computer Int'l et al.*
27. 8:12-cv-02123-ODW-MRW *Digitech v. Motorola Mobility Inc. et al.*
28. 8:12-cv-02126-ODW-MRW *Digitech v. Acer America Corp. et al.*
29. 8:12-cv-02127-ODW-MRW *Digitech v. Toshiba Corp. et al.*
30. 8:13-cv-00134-ODW-MRW *Digitech v. LG Electronics USA et al.*